

or review of the Order. Plaintiff claims that he called the Clerk's Office on September 5 to inquire about the pending motion and learned that the Court had granted it. After requesting a copy of the Order, Plaintiff asserts he received a copy on September 9, 2018. On September 24, 2018, Plaintiff sent correspondence to the Court indicating that he received a copy of the Order from the Court on September 9, 2018, asserting that had he timely received a copy of the Order he would have filed a notice of appeal, and requesting that he be provided additional time to appeal the Order.

Rule 4(a)(5) of the Federal Rules of Appellate Procedure allows the Court to extend the time to file a notice of appeal if: "(i) a party so moves no later than 30 days after the time prescribed by this Rule 4(a) expires; and (2) regardless of whether its motion is filed before or during the 30 days after the time prescribed by this Rule 4(a) expires, the party shows excusable neglect or good cause." Rule 4(a)(1) allows thirty (30) days following the entry of an order to file a notice of appeal.

Plaintiff herein seeks to extend the time to file a notice of appeal approximately ninety-five days after the Court issued its Order. Plaintiff's time to file the motion expired thirty-five days prior to the filing of his request and therefore his request is untimely.

Even if his request was timely, Plaintiff has failed to establish excusable neglect or good cause. Even if Plaintiff did not receive a copy of the Order until September 9, as he claims, he did not seek leave to appeal the Order until September 24th, more than two weeks later. Plaintiff has offered no explanation for this delay and has offered no basis upon which the Court could determine that such delay is "excusable" or that "good cause" exists for allowing Plaintiff to file a Notice of Appeal at this juncture. Accordingly,

IT IS THEREFORE ORDERED that Plaintiff's letter motion to extend time to file a notice of appeal is hereby DENIED.

Signed: October 31, 2018

A handwritten signature in cursive script, reading "Graham C. Mullen", written over a horizontal line.

Graham C. Mullen
United States District Judge

